

**ST 99-21**

**Tax Type: Sales Tax**

**Issue: Bearing the Burden for Payment of Tax (Claim Issues)**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

---

---

**THE DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS**

v.

**“JOHN DOE”, d/b/a “THE DAILY  
NEWS”,**

Taxpayer

No. 98-ST-0000

IBT: 0000-0000

NTL: SF-1900000000000000

Christine O’Donoghue  
Administrative Law Judge

---

---

**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Mr. John Alshuler, Special Assistant Attorney General, on behalf of the Department of Revenue of the State of Illinois. Taxpayer appeared pro se.

**SYNOPSIS:**

This matter comes on for hearing pursuant to the timely protest by “The Daily News” (hereinafter “Daily” or “taxpayer”) of Notice of Tax Liability (“NTL”) No. SF-1900000000000000, issued by the Department of Revenue on June 25, 1998 for Retailers’ Occupation Tax, penalty and interest for the audit period of January 1, 1994 through December 31, 1996. The taxpayer timely protested the assessment and a hearing was held whereat Mr. “John Doe”, the sole proprietor of “The Daily News” appeared and testified on behalf of the taxpayer.

Following the submission of all evidence and a review of the record, it is recommended that this matter be resolved in favor of the Department of Revenue.

**FINDINGS OF FACT:**

1. The Department's *prima facie* case, inclusive of all jurisdictional elements, was established by the admission into evidence of the Correction of Returns, for the period of January 1, 1994 through December 31, 1996, showing a total liability due and owing in the amount of \$243,059 for Retailers' Occupation Tax and penalties. Dept. Group Ex. No. 1; Tr. p. 7.
2. The auditor calculated the tax liability as shown due on the Correction of Returns based upon documents obtained from taxpayer's suppliers delineating the taxpayer's purchases during the audit period. Dept. Group Ex. No. 1.
3. Taxpayer failed to offer any documentary evidence as to the assessment at issue. Tr. pp. 7-8.

**CONCLUSIONS OF LAW:**

Pursuant to Illinois statute and case law, the correction of returns is *prima facie* correct and constitutes *prima facie* evidence of the correctness of the tax due. Copilevitz v. Department of Revenue, 41 Ill. 2d 154 (1968). The Department's determinations are rebutted only after a taxpayer introduces documentary evidence which is consistent, probable and identified with taxpayer's books and records, showing that the Department's determination is incorrect. A. R. Barnes v. Department of Revenue, 173 Ill. App. 3d 826, 835 (1<sup>st</sup> Dist. 1988).

At hearing, the taxpayer failed to introduce any evidence regarding the assessment set forth in NTL SF-190000000000000, therefore, it failed to rebut the *prima facie* correctness of this liability. Copilevitz v. Department of Revenue, 41 Ill.2d 154 (1968)

**WHEREFORE**, for the reasons stated above, it is my recommendation that Notice of Tax Liability SF 190000000000000 be finalized as issued with interest accruing pursuant to statute.

Date: November 11, 1999

---

Christine O'Donoghue  
Administrative Law Judge